

EU administrative conditionality and domestic downloading: the limits of europeanization in challenging contexts

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The Limits of Europeanization in Challenging Contexts

Arolda Elbasani

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EU ADMINISTRATIVE CONDITIONALITY AND DOMESTIC DOWNLOADING:

THE LIMITS OF EUROPEANIZATION IN CHALLENGING CONTEXTS

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Abstract

How and to what extent have European ideas transformed the political-administrative institutions in the candidate countries in the East? Which conditions work to mitigate and undermine the impact of the European Union (EU) in these contexts? Research on post-communist transformations, by and large, holds EU enlargement as a successful attempt of institutional transfer in the candidate countries. However, while the EU proved to be successful in the first wave of enlargement in the East, we know much less about its effects in ‘borderline’ cases that lack the will and/or the capacity to pursue required reforms, thus posing a real challenge to EU enlargement strategy. The paper aims to trace the effects of enlargement in challenging domestic environments focusing on public administration reform in post-communist Albania. Differently from the classic Europeanization literature, the bottom-up approach used here, seeks to bring to the fore the crucial role of domestic agency to download and sometimes mitigate European transfers in the national arena. Evidence from the case study shows that governing actors have used EU enlargement as a means to further their strategic goals – they have preferred to talk the talk of reform in order to reap the benefits associated with EU integration and broader external assistance, but also resist implementation of new rules that curtail the political control of the state and the ongoing system of spoils built throughout the post-communist transition. The EU’s broad thresholds on administrative reform and the weak association between monitoring of progress and rewards have left ample space for the governing actors to merely pay lip service to the EU prescriptions, while getting full control of a politicized administration.

The Author



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1. Introduction

EU enlargement is widely held to be a crucial source of domestic change in the post-communist space. The main thrust of EU policy in the region, conditional accession following the fulfilment of the Copenhagen criteria, has arguably vested the EU with unprecedented influence over domestic change. As a recent article summarizes, “the EU not only crowded out the other sources of institutions and policies, but it also achieved rule adoption where other organizations had failed” (Schimmelfennig/Sedelmeier 2008: 99). Along the advancement of EU integration and accumulated evidence on uneven impact of enlargement, research has shifted towards identifying the scope factors that enable effective rule transfer from the EU to candidate countries and measuring its effects. What are missing in the analysis, however, are ‘borderline’ cases that do not have the will and/or the capacity to pursue required reforms. Those cases become more prominent as the EU has promised to enlarge towards the Western Balkans, all countries facing rather daunting domestic conditions. At the same time, such problematic cases can help us shed light on the factors that mitigate and refract the transfer of European rules in various domestic contexts.

The paper traces the role of the EU in challenging domestic environments, focusing on the area of public administration reform in Albania. Reform of administration here is defined as progress towards embracing the conventional Western models synonymous with the Weberian-type bureaucracy – a distinct social sphere with its own organizational principles, a stable, professional career civil service and its own bureaucratic rationality emphasizing legality (Goetz 2001: 1033). Post-communist transition in the country has necessitated a wholesale restructuring of the state along the lines of the classic model of state bureaucracy. However, most efforts to reform the post-communist administration have stalled somewhere between transposition of new legislation and continuities of old practices of controlling the state, as each incoming majority has resorted to replace in administration its own supporters, thus undermining any sense of stability and professionalism. The extension of the enlargement policy to all the Balkan countries, including Albania, promised to replicate the success of enlargement as an effective form of institution building in the East. How and to what extent can EU enlargement mechanisms foster administrative reform in such challenging cases? More generally, which factors work to facilitate or mitigate the diffusion of European ideas in the domestic arena?

The research design used here goes against the main thrust of the Europeanization literature, which, by focusing on EU pressure, risks exaggerating its influence vis-à-vis domestic factors and other sources of change. The paper, instead, stresses the importance of the domestic factors to transpose, accommodate and perhaps neutralize the models imported in the domestic arena. The first part reviews the assumptions and findings of the research on Europeanization via enlargement. The rest of the paper provides a longitudinal analysis of the vicissitudes of public administration reform in post-communist Albania and assesses the role of the EU to change established patterns of reform. The second part reconstructs the hesitant path of reform in the initial period of transition from 1992 to 1996; and the crucial role of the donors to push forward a comprehensive legal package after the collapse of the Albanian state in 1997. The third part assesses the role of the EU instruments to push forward state reform, after the extension of the enlargement strategy tailored to the Western Balkans in 2000.

The paper suggests that the introduction of enlargement mechanisms has provided additional safeguards to keep on track the major reform orientation towards principles of de-politicization and stability, both prescribed as the cure to the post-communist legacy of one-party state (Verheijen 1998: 410). However, the EU instruments, much alike a plentiful of donors activity, proved to be easily played out by governing actors seeking to get the rewards associated with EU integration while keeping in place a system of spoils based on political control of the state. Overall, the article suggests that the application of EU conditions allows plenty of space for domestic actors to pay lip service to the EU conditions and neutralize EU influence when it crosses hard interests of maintaining power such as control over the state institutions and resources.

2. Europeanization and Institutional Reform in the Post-Communist Countries

Since the mid-1990s, EU enlargement processes are mostly credited to impact institutional change in the candidate countries in Central and Eastern Europe (CEE). Many studies have noted that post-communist democratization has been faster and less prone to reversals in countries sharing a strong promise of integration (Pop-Eleches 2007: 142). Parallel to the advancement of EU enlargement, the Europeanization paradigm has turned into the dominant approach to explain the quicker, coincident and to some degree convergent reforms in the candidate countries in the East (Schimmelfenning/Sedelmeier 2008).

In analytical terms, the Europeanization perspective to post-communist change draws heavily on the growing literature analyzing the impact of EU in member countries. The focus here is to connect domestic and European politics by shifting attention from the European-level orientation of classic integration theories to the domestic level (Graziano/Vink 2008: 4). In addition, the research agenda usually goes beyond a narrow notion of 'impact' by absorbing concerns of both institutionalization, that is the development of formal and informal rules, procedures, norms and practices; and complex modes of interaction instead of a unidirectional impact of Europe on domestic politics and policy (Radaelli/Pasquier 2008: 17).

Empirically, Europeanization in the CEEC extends the scope of research to processes of enlargement and seeks to specify the distinctive ways in which EU works in the candidate countries. On the one hand, the EU relations with its candidates are different and so are the instruments of Europeanization, mostly characterized by the pressure of enlargement conditionality (Schimmelfenning/Sedelmeier 2008: 88). In addition, the EU disposes of a range of mechanisms that complement and reinforce the principle of conditionality, most notably gate-keeping to accession stages, benchmarking, monitoring, the provision of legislative and institutional templates as well as aid and technical assistance (Grabbe 2001). On the other hand, most candidates coming from state socialism had to Europeanize while undergoing a deep process of transformation, including the wholesale reshuffling of state institutions. A Europeanization perspective to the CEEC should, thus, take into account both the nature of EU enlargement tools and the particular transition contexts in the target countries.

2.1 *EU and Effective Rule-Transfer in the East*

Along with the advancement of EU integration and accumulated evidence on the impact of enlargement, research has shifted towards identifying the factors that enable effective rule transfer from the EU to candidate countries and measuring the scope of domestic change that can be attributed to the EU. Research so far, however, suggests different findings with regard to the factors, processes and latitude of impact.

A strand of literature attaches an overpowering role to EU enlargement mechanisms, especially the pressure of conditionality to transfer new institutions in the candidate countries. Indeed, the EU has made accession contingent upon a set of rather intrusive criteria, first established by the European Copenhagen Council in 1993. Grabbe seems to voice a widespread consensus when suggesting that “in the context of framing its enlargement towards East, the EU established the most detailed and comprehensive accession conditions ever formulated” (2006: 250). That these conditions have been at least partially designed to address transformation problems in the candidate countries increased their appeal to young democracies keen to join Europe (Dimitrova 2002: 175). Furthermore, EU conditions follow on an efficient strategy of *reinforcement by reward*: the EU prescriptions come up with a set of highly appreciated rewards for most post-communist candidates - assistance, upgrading of contractual relations and the ultimate reward of membership - which the EU promises to deliver in case of compliance, but can well withhold in case of non-compliance. Conditional rewards, thus, promise to alter domestic actors' opportunity structures by providing additional incentives for them to choose reform instead of the status quo established prior to the introduction of EU incentives. These incentives are all the more powerful in the context of the asymmetrical power relations that characterizes the relations between EU and post-communist countries whereby EU membership entails substantial benefits for the CEEC, but not that many for the EU. The power asymmetry combined with the high volume and intrusiveness of rules attached to membership has arguably allowed the EU enormous leverage on the restructuring of domestic institutions in the candidate countries (Schimmelfenning/Sedelmeier 2008: 98).

However, even enthusiastic Europeanists have to come to terms with the rather consensual findings on the differentiated impact of Europeanization across countries and areas of change. As Börzel and Risse note: “Diffusion processes inside and outside Europe have not produced homogeneity and convergence. Europeanization has not led to the disappearance of national institutional and cultural differences” (2009: 1). Moreover, any simplistic causal relation between conditionality and rule transfer in the East runs into trouble, as research tends to accumulate increasing evidence of selective rule adoption and especially hollow implementation of adopted rules (Jacoby 2004). Conditionality, even in conditions of power asymmetry, does not tell us much about the way the EU rules are adopted, interpreted and sometimes even deactivated at the domestic level. Therefore, posing a relation between EU and domestic impact needs a careful assessment of how EU rules are perceived and accommodated in the domestic arena.

Parallel to increasing evidence on the differentiated effects of EU in the East, standard Europeanization research has come under increasing critique for disguising more than uncovering on sources of change. Critics assert that studies which take EU conditionality as a guiding analytical concept tend to prejudge the role of the EU vis-à-vis other sources of domestic change, a phenomena that Goetz refers to as “a cause in search of an effect” (Goetz 2000; see also Radaelli/Pasquier 2008; Börzel 2002: 193). Second,

most Europe-anization accounts tend to assume that the EU conditions prescribe clear guidelines for institutional reform, which is different from the reality of broad templates and approximate expectations, which could well foster domestic change, but when subsumed under “conditions” may misinterpret the way they became effective (Brusis 2005: 297). Finally, Europeanization research more often than not tends to focus on the outcome of reform as measured against EU prescriptions rather than delve into the evolving dynamics and particular contexts of change (Brusis 2005: 300). Such decontextualised accounts are predisposed to decouple the policy output from the domestic evolution process and the domestic actors, which finally download the EU conditions in the domestic arena. In addition, focus on one-shot views to the end results of reform might well miss the fluid, intermediate and at time ambiguous stories of institutional evolution such as the emerging amalgam of old and new institutions (Olsen 2003: 521) and mixed results of implementation (Grabbe 2006: 63) which seem to be the state of the art regarding institutional development across the post-communist space. Overall, the EU critics tend to uphold the role of domestic factors and bring in evidence that it is the domestic politics that holds the key to compliance.

2.2 *Bottom-Up Research Design: Striking a Balance Between Sources of Change*

The bottom-up research design in Europeanization studies promises to bring in more prominently the role of domestic factors and capture the relative importance of EU vis-à-vis alternative factors of change (Radaelli 2003: 50-52). Differently from classic Europeanization research, bottom-up approaches propose to start from the system of interaction at the domestic level and by using temporal sequences check if, when and how the EU provides a change in any of the components of the domestic system of interaction. EU conditionality is, thus, treated as one of the intervening factors rather than an over-powerful independent factor of change. In this way, the bottom-up approach can help to “control for rival alternative hypothesis via process-tracing and time sensitive political analysis” (Radaelli/Pasquier 2006: 40). This is necessary to discern whether the nature of outcomes is clearly the result of EU drive or other endogenous as well as exogenous processes at work, something which is rarely done systematically in Europeanization research.

Furthermore, such designs that bring forward more prominently the role of domestic politics, are less interested in question of end-state and more in the processes of interplay and co-evolution of the domestic and EU structures. This is increasingly important as one moves from the macro-level grand assessment of regime change to the meso-level of policy and institutional reform. Indeed what looks as convergence at the macro-level might still show significant divergence at the meso- and micro-level of institutional change. Process-tracing and the narrower scope of analysis is, thus, more apt to unscramble the modes of domestic emulation resulting from EU pressure as well as detect cases of “incomplete” or “shallow Europeanization” (Goetz 2000: 1032).

Finally, such research can tell us more about implementation - the process through which external norms are transposed, adhered to and enforced at the domestic level (Sverdrup 2008: 197). Studies of international bargaining suggest that implementation can be used to mitigate the impact of conditionality in a ‘two level game’ whereas the domestic actors are players at the international and domestic level of negotiations, to use the language of Putnam (1988). The hollowing-out of what is negotiated at the

international level, during the implementation process, has been increasingly an issue of the effectiveness of external rule transfer in the post-communist context. Grabbe, for example, notes:

“The issue is more what happens after policies were transferred from one body to the other. Large-scale transfer of EU rules into national law in CEE certainly occurred, but what happened when the policies were implemented? [...] the model has to be expanded in the implementation phase, moving beyond its current focus on the emergence of transfer networks to encompass the phase between process and outcome.” (2006: 63)

By tracing the process and dynamics of change in all its stages, the bottom-up approach tends to go beyond a simple “external incentive model” predicting emulation once the EU rewards alter domestic actors’ political opportunities in favour of reform. Instead, it aims to embody elite choices more readily in their domestic context and to foresee the tendency of institutional transfers to stick to established pathways, although the EU conditionality can be seen as an opening or critical juncture that facilitates the transposition of new rules. At the same time it can show how and to what extent the new rules can be played out by the purposeful domestic agency, operating under constraints of structural legacies and behavioural patterns, which finally determine the “shape” of EU transfers into the domestic arena.

3. Public Administration Reform in Post-Communist Albania

Polities that come out of an authoritarian one-party regime, such as post-communist Albania, face a multitude of challenges to transform the inherited state structures and state bureaucracy. Given the particular nature of communism, public administration reform included overwhelming tasks such as a wholesale reorientation of the administration towards politics as well as reinvention of the administrative structure, legal framework and a new career management system for public personnel (Verheijen 2002: 480; Goetz 2001: 1034). The reinvention of administration was generally framed as a process of modernization towards the end goal of conventional Western European models associated with Weberian bureaucracy. The main tenets of the Weberian model - permanent and professional personnel obeying the law and insulated from political masters - seemed to be the best cure to decades of ‘real socialist’ organization of state power notorious for their strong political control over administration, the intertwining between party and state bureaucracy, precedence of party decisions over legal norms, and personnel system relying on political cadres and party controlled nomenclatures (Goetz/Wollman 2001: 865)

The scope and depth of reform was to be particularly challenging in the case of Albania that had gone farther than any other communist country to establish Communist Party’s control over all branches of state power and had resisted any form of liberalisation until the very collapse of communism in 1992. Indeed, the communists succeeded to maintain total control over the society by mobilizing the state in function of their ideological and political objectives and by establishing an unprecedented totalitarian system. The 1976 constitution, which was widely considered as a uniquely orthodox document among the communist constitutions, formalized the role of the communist party as “the sole leading force of the state and society” and stressed that Albania is a “state of the dictatorship of proletariat (Prifti 1999: 214-229).

During the four and a half decades of communist rule, from 1945 to 1990, all the sectors of the state were used as an exclusive property of devoted members of the communist party and their clique, which ensured a direct line of control and subjugation from the party to the state. When the anti-communist forces, under the banner of the newly established Democratic Party (DP) first came to power in 1992, they had to bow to a series of all but easy tasks including coping with the all-pervasive legacy of the one party-state organization, and also reinventing the functions and structures of the post-communist state.

3.1 *Late and Partial Efforts to Cope with the Communist Legacy, 1992-1997*

The creation of a Weberian model of professional and independent administration to be managed by special laws did not enter the priorities of the initial agenda of regime change, until the very end of the DP's first term in office. Yet, once in power, the democrats had to choose on the fate of the bureaucracy inherited from the ancient regime and the situation in the country did not offer many solutions (Biberaj 2000). Given the communists' continuous purges against all sources of dissidence, the choice seemed to be a crude one - between the inherited communist bureaucracy, which had the expertise and experience, but could undermine efforts to reform; and the new inexperienced personnel from the ranks of the anti-communist movement, which had emerged only months before. While the former was widely perceived as bearers of communism, the latter more often than not lacked any kind of professional expertise and experience. The government choices seemingly sided with the hardliners advocating the wholesale cleansing of the public institutions from communist era employees. The following step was to place in administration new staff chosen on the basis of democratic loyalty (Vickers/Pettifer 2000). Overall, although the anti-communist establishment might have had limited choices, not to speak of the 'luxury' of people who had a first hand experience with democracy, an administration packed with anti-communist activists seemed as badly or even worse equipped to cope with the many transition challenges than the former administration.

The strong hand of the anti-communists to reshuffling the state bureaucracy was largely facilitated by the lack of a proper framework to protect public employees from the political will of the day. Even the idea of separating the administration from the ruling majority, not to speak of elaborated devices for protecting state employees and management of career system, was completely foreign to the Albanian authorities until, at least, the mid-1990s, when the government pushed the first Civil Service Law. Until its adoption, the working status of all public employees was regulated by the temporary revisions of the communist Labour Code. Article 24/1 of the amended labour law allowed directors of the institutions, themselves political appointees, the discretion to fire employees under their control whenever necessary to "implement reform in the state sector" (Shunsi 2004). Since the same directors had the competence to decide also about reform needs, there were absolutely no procedures to protect state employees from the political will of the directors. In fact, the article was widely used to replace thousands of employees, regardless of their rank, capacities and skills. Another article of the labour code that allowed the recruiting commissions in each institution to appoint personnel in cases of urgency, proved also an extremely effective device to place in administration suitable political candidates. Both provisions were so widely

used that political appointments, had become the rule of recruitment across the entire administration (World Bank 1998: 96). Even when a Civil Service Law was adopted by the end of 1995, it proved a dead letter of intentions, which was not even complemented with necessary by-laws to make it operational, thus failing to reduce political control over the state bureaucracy.

During the first stage of transition from 1992 to 1996, old practices of party control over the state and the later subjugation to the ruling majority, lingered all around late and intermittent efforts to modernize the state and introduce new rules for managing public personnel. Throughout the period, the governing party remained strongly identified with the state institutions, highly reminiscent to the one-party state of the communist era. The most immediate result was an extremely politicized state lacking bureaucratic skills and sophistication with huge repercussions for the country's weak governing capacities. Not surprisingly, the post-communist state proved extremely inefficient to cope with the challenge of economic and political transition as the country headed towards both economic disaster and politically motivated civil war, which blew up the anyway feeble achievements of the first post-communist transition (Biberaj 2000). By 1997, the state became the very target of massive protests unhappy with the mismanagement of pyramid schemes, which were allowed to attract the savings of more than half of the Albanian families by promising incredibly high rates, until their total collapse in the period between 1996 and 1997. The socio-political crisis that followed showed in open light that the development of a state with adequate capacities to govern was the ignored dimension of the transition and that this kind of party-state was extremely vulnerable to collapse as soon as the governing party came under attack (World Bank 2000: 47).

3.2 *The Foreign Drive to Restructure the State Administration, 1997-2000*

The post-1997 era signalled a new period when the international community turned into an all-important actor leading the efforts to rebuild the state in the conditions of a highly politicised political atmosphere and weak domestic leadership to reform. Foreign intervention was nothing new as post-communist Albania from the beginning had adopted an outward-oriented strategy of development counting on foreign funds and assistance. However, the collapse of the state in 1997 and the risks emanating from an unruly country in the midst of Europe extenuated the role and the interventionist style of the international community. As one of the Albanian politicians admitted, "[after the crisis] not a single [...] problem has been solved without the intermediation, supervision or intervention of various structures of the international community" (Ruli 2003: 153). While the Albanian politicians became increasingly prone to ask and accept different forms of assistance, the internationals got deeper involved into rebuilding the state to the extent that the country is often depicted as a client state that needs foreign control in order to gain the features of a European state (Della Rocca 2000: 138; Vaughan-Whitehead 1999: 8).

Already in July 1997, the Strategy for Recovery and Growth designed jointly by the World Bank, the EU, the European Bank for Reconstruction and Development (EBRD) and, partly, the International Monetary Fund (IMF), listed public administration among the seven strategic components of future reforms (World Bank 1997: 3). The World Bank was among the first to push forward a new governance agenda inserting "governance and institution building as one of the central planks of its intervention and [...] the most important challenge facing the government of Albania" (World Bank 2000). Consequently,

most donors endorsed the reform of administration as a strategic priority of their aid programme in the country. The common *Strategy for State Institution and Public Administration Reform* (SIPAR), adopted by the government at the end of 1997, was almost totally funded by foreign donors including the EU, the Organization for Security and Cooperation in Europe (OSCE), the EBRD, the World Bank, the United Nations Development Programme (UNDP), the Council of Europe (CoE), the United Nations Agency for International Development (USAID), as well as a range of bilateral donors.

Donors' focus on institution building has encouraged an overhaul of the legal basis to reorganize the state administration. Various donors' recommendations have made it into a range of government strategies to restructure the state. In addition to SIPAR, the government corruption plan and the government economic programme drafted also with the help of, if not directly by, the donors included a set of administrative objectives (World Bank 2000: 13). Overall, the reform strategy envisaged two major stages: 1) the creation of a small civil service core; and 2) latter extension of civil service management rules to the wider public institutions. The results were fast to come.

The new democratic constitution adopted in 1998, which was itself one of the components of the *Strategy for Recovery and Growth* drafted by the international actors, made sure to entrench the aspired principles of a modern administration in the highest body of the law. Article 107 of the constitution requires public employees to apply the law; be selected through examinations; be guaranteed tenure and special legal treatment, thus alluding to the superiority of law in the working of administration, a merit-based selection system and guarantees of work that ensure the insulation of administration from politics. The constitutional guidelines to reorganize the administration were probably too general to assess reforms in practice, but they certainly determined the broad confines of change and launched a renewal process at the symbolic level.

One year later, in 1999, the government brought together a new master strategy, which comprised the programmes drafted in the last two years and provided the overall framework for reform. The World Bank lent a credit of around eight million dollars to fund a major project aiming "to provide required resources for technical assistance, training, goods and incremental operating costs needed to implement the Government's institutional and public administration reform agenda effectively" (World Bank 2007: 2). The new strategy was the start of an intensive effort to improve and complement the legislative framework for managing human resources across the state apparatus. A new Civil Service Law drafted with substantial assistance from main donors, especially the World Bank and the initiative *Support for Improvement in Governance and Management* (SIGMA), was adopted soon in November 1999. The law reiterated the guiding principles of professionalism, independence, integrity, political neutrality, transparency, service to the public, career continuity, accountability and correctness in the application of binding legislation (Article 3). Most laws and by-laws necessary to implement the Civil Service Code were soon adopted in the first half of 2000.

However, given that most of what happened with administrative reforms carried a substantial input from donors, many wondered whether reforms in this sector mounted to more than a package of legal acts passed to please the international donors and reap the benefits of assistance (Vaughan-Whitehead 1999: 21). In the context of donor-pushed grand strategies and new legislation, many wondered if the governing

actors would find the political will and capacity to implement the adopted legislation, which would reduce their control over the state and the system of spoils built throughout the unruly transition experience.

3.3 *The Mixed Record of Implementation, 2000-2005*

The new package of laws on the civil service system was an achievement in itself given the lack of domestic actors' initiatives to engage in such reforms. The legal framework by and large has contributed to frame the broad confines of administrative change by outlining new career incentives to attract professional staff and ensure stability of the administration. As the World Bank assessed,

"With this law, the framework for competitive, transparent recruitment and selections procedures were put in place. [...] This is at stark difference from the previous system which was subject to arbitrary and non-transparent human resource management practice." (2007: 27)

However, as many feared, the new rules proved to be insufficient to instil professionalism and some degree of stability across the state administration. First, the range of laws issued between 1999 and 2000, were probably too late to stop the massive wave of dismissals that followed the election of the Socialist Party (SP) in 1997. Different sources estimate that 15,000 or 15 per cent of total public employees mostly from key positions in administration were dismissed for political reasons and replaced with SP supporters (Freedom House 1998: 51). By 1998, the government had lost most of the civil servants from the previous administration together with their accumulated experience and skills although literally nothing was documented (UNDP 2003). One can thus argue that when the law was issued in 1999, most civil servants to be protected by law were anyway part of the governing party loyalists rather than impartial professionals.

Second, the internal fighting and the consequent frequent changes of six cabinets during the period of SP ruling, from 1997 to 2005, have stimulated further the pattern of unqualified political nominations at all levels of administration. SIGMA, for example, noted the tendency for each incoming cabinet to place members of their inner circle in key state positions (SIGMA 2004: 32). In 2003 the IMF blocked the release of promised credit as a protest against unqualified appointees in key positions in administration. While the initial reshuffling of the state bureaucracy was justified as part of regime change, the consequent waves of political appointments after the change of cabinets within the same Socialist majority seemed to hint to respective leaders' clientelistic strategies to benefit from the high spoils of controlling the state rather than establish party's control over the state.

While the waves of dismissals belonged to both categories – civil servants protected by law and the wider state employees whose contracts were based on normal labour law – one must add that the large scale reshuffling of administration from respective cabinets was probably facilitated by the limited coverage of the Civil Service Law, which covered only a small range of core executive institutions amounting to 2 per cent of public employees (Shunsi 2004). The extension of civil service rules to wider categories of public employments was never enacted into law as predicted in the initial grand strategy of reform. Therefore, the biggest part of the administration continued to function anyway unprotected from the political will of the day and vulnerable to ripples sent by each government turnover.

4. The Role of the EU's Administrative Criterion

Until the introduction of the enlargement framework to the Western Balkans in 2000, the EU was one of the most important donors that pushed forward institution building priorities after the collapse of the state in 1997. At times, the EU and its founded programme SIGMA were accepted as informal leaders of public administration reforms, but the field was crowded also with other active donors such as the World Bank, UNDP, EBRD, USAID and a range of bilateral governments that made institution-building a central component of their programmes in the country. Hence, the EU leverage was limited to the control of assistance and general aid conditionality applied in unity with other foreign donors when necessary to put pressure on the Albanian authorities.

The extension of a new EU enlargement framework to all the Balkan countries promised to increase the role of the EU by activating an extensive range of conditions that countries had to comply with to qualify for progressive stages of integration (Pippan 2004; Elbasani 2008). The substantial rewards that back the EU conditions, most notably advancement of membership and assistance, will arguably provide additional incentives for domestic actors to comply with EU requirements. In addition, the EU disposes of a range of tools to monitor and target country's stage of reform. EU enlargement has raised high expectations of change, which could be facilitated by a critical mass supporting integration, among both the elites and wider public. Can the EU win over governing actors' interest to control the state? How are the enlargement instruments used to support administrative reforms? And to what extent do they work in such environments that lack committed agency to pursue reforms?

4.1 *What Does the EU Ask Regarding State Administration Reforms?*

The EU in general lacks common institutional models for regulating the public administration sphere in its member countries (Olsen 2003: 513 f). However, from its early stages of enlargement to the East, the Union realized that administrative capacities were critical to ensure transposition and especially effective implementation of the growing body of the *acquis communautaire* in the candidate countries (Verheijen 2002: 248). Moreover, the Union's early experience with generally weak administrative capacities across the post-communist candidates has pushed it towards developing an 'administrative capacity' criterion. The initial Copenhagen Criteria included merely implicit references to the administrative criterion, but, the Union has made sure to outline the criteria during the process of enlargement.

The White Paper adopted in 1995 warned that "the main challenge for the CEECs lies not in the approximation of their legal texts, but in adopting their administrative machinery [...] to make the legislation work" (Dimitrova 2002: 175; citing White Paper 1995). Later on, the Agenda 2000, assessing each country's preparedness to assume membership obligations, has singled out administrative capacities as a criterion in its own right. The Country Opinions assessed that, "a judgment [on the Copenhagen Criteria] depends also on the capacity of a country's administrative and legal systems". Consequently, the commission gave increasing weight to the administrative criterion asserting it as an indispensable part of upcoming annual reports and accession partnerships.

Finally, SIGMA's paper on *Preparing Public Administration for the European Public Space* helped to elaborate some baseline criteria for assessing administrative capacities in the candidate countries. Overall, the EU requirements insisted on general rules such as the adoption of civil service laws to guarantee independence, the establishment of a career system, pay reform and training (Fournier 1998: 113; Verheijen 2002: 250). The EU requirements, thus, by and large reinforce the ongoing path of modernization of the state in the post-communist space. As Goetz puts it "the European perspective of membership and its anticipated effects share most of the assumptions of the modernization paradigm with the difference that the objective is the creation of public administrations that allows the future members to act as effective players in the EU system" (2001: 1037).

The components of public administration reform, as identified by SIGMA, were included in the Commission's annual assessment of the candidate's progress. Yet, they were used in a selective way to identify the problematic areas of respective countries on a case by case basis (Kochenov 2005: 18-20). In addition, the components identified by SIGMA consist of broad guidelines rather than specific advice on how to precede with required reforms. Hence the administrative criterion can be taken to represent a general institution-building approach through which the EU tries to fix the major problems of each country through an individual and ongoing process of evaluation (Dimitrova 2002: 181). When it came to encompass the Western Balkans in yet a new wave of enlargement, the EU had already defined the administrative criterion and seemed even more determined to push for reform in the context of generally weak state capacities across the region.

4.2 *The Use of Enlargement Instruments in Function of Administrative Reform*

In the case of Albania, the EU was pretty much aware of the reality of weak state and poor calibre of the state administration. At the outset of negotiating a new contractual agreement, the *Stabilization and Association Agreement* (SAA), considered an important step towards EU integration, the Commission emphasized the risk of poor administrative capacities. The *High Level Steering Group*, which is in charge of identifying the reforms that the country needed to carry out in preparations for the SAA, noted that,

"The Albanian administration remains extremely weak. Recruitment on the basis of open competitions has only just begun and it will take time to build a culture of public service, free from political and financial influence. In almost every area where Albania would take on obligations under a 'Stabilization and Association Agreement' there is a lack of implementing capacity. The legal situation is broadly satisfactory [...], but there is little capacity to implement them. Until this situation can be redressed, the new laws will exist only on paper." (European Commission 2001)

Since the first report in 2001, the EU has consistently monitored progress of reform as an essential element among the long list of political standards. The annual reports' assessment of administrative capacities tends to be rather bleak ranging from weak (European Commission 2002, 2003) to showing some progress with many buts attached (European Commission 2004, 2005, 2006, 2007). In addition, the European Partnerships (EP), which aim to identify the priority areas, which the country needs to tackle in both short and medium term, do persistently target poor administrative capacities. The last EP (2008) much like the earlier ones (2005, 2006) suggested that the Albanian authorities had to:

“Ensure enforcement of the Civil Service Law and take steps towards its improvement; Take measures to prevent undue political interference in the functioning of the public administration; Produce clear guidelines as regards recruitment, transfer and dismissal for all civil servants, and implement them.” (European Council 2008).

Thus, the EU has persisted to monitor and target administrative reform in a systematic manner, but most assessments are more focused on identifying major problems rather than outlining specific solutions and how to go about complying with the general nature of the EU prescriptions in this sector of reform.

In addition to setting broad thresholds to guide and assess the creation of administrative capacities, the EU has seemingly opted for an inconsistent association between assessments of reform and the provision of rewards it controls. Indeed, the EU more often than not proved to overlook the bleak results of administrative reform when deciding to advance the contractual relations with the country. The administrative criterion was one of the areas under assessment, but hardly among the main concerns informing the EU decisions in all the stages of negotiating the SAA with Albania, the equivalent of the *European Agreements* for the Western Balkans. The *High Level Steering Group* in charge of recommending how to step up cooperation with the country in 2001 favoured opening negotiations for an SAA, although it noted “widespread lack of capacity to implement its own laws and international obligations” (European Commission 2001: 8). The opening of the negotiations was delayed for some months until October 2002, but that was related to electoral concerns at the aftermath of problematic elections in 2001 (Elbasani 2004). The delay of concluding SAA negotiations in summer 2006, even though the technical negotiations were concluded by 2004, were never explicitly related to progress of general institutional reform, but to other emergent priorities such as irregular elections and political instability.

Throughout the period, neither the deficiencies identified in the functioning of public administration, nor the lack of capacity to ensure implementation of the SAA, nor the long list of administrative priorities the country had to deal with as part of the EP legal obligations, have prevented the EU from advancing its relations with the country and signing the SAA in summer 2006. One can, therefore, suggest that the administrative capacity criterion rated rather low among the EU priorities in the country and lacked both consistency and credibility to be among the “hard conditions” backed by substantial rewards or their withdrawing in function of assessed compliance.

The EU’s reluctant use of negative conditionality in this sector, that is the withdraw of rewards in function of assessment of the administrative progress, could be explained by the range of priorities the EU faces in reluctant cases of democratization such as Albania, still struggling with disputed elections and waves of political instability. In addition, the country is anyway far from membership to consider weak capacities a realistic threat for EU. Yet, that the Union may have to face more pressing priorities and that the administrative reform can wait until the country gets near to the goal of membership does not make conditions in this sector more credible, or credible enough to alter domestic actors’ incentives in favour of reform. This is particularly difficult when decades of partial reform and ongoing patterns of politicization have permitted high spoils for the governing actors as shown by different schemes of state corruption (Elbasani 2009). How and to what extent can EU conditions, then, bring a change to established patterns of reform?

4.3 *Domestic Compliance: Paying Lip Service to the Administrative Criterion*

When EU enlargement came into play at around 2000, the country had moved ahead to adopt a comprehensive modern legislation on state administration, although with little evidence of curbing politicization, instability and poor qualification across the public administration. As such, the baseline for evaluating the added value of EU vis-à-vis current stage of reform would be 1) providing additional safeguards to legal progress and 2) advancing the implementation of the new rules in practice.

The adoption of a progressive legal framework has gone parallel to ongoing patterns of politicization, but at the same time had helped induce some degree of stability and build-up progress across state reform. The 2005 elections were to be an important test for the EU as they brought in power the DP majority, which had been in opposition for the last eight years and therefore mostly excluded from the state institutions. Given the abundant evidence that the outgoing SP majority (1997-2005) and the previous DP majority itself (1992-96) had resorted to fill the administration with their respective supporters and get hold of the state, the 2005 political turnover would be a critical point to show whether the EU mechanisms could help to break this “informal rule” of reshuffling the state and starting anew after each political turnover.

The EU’s broad administrative criterion and consistent monitoring of administrative progress have provided additional safeguards to keep reforms in track at least at the symbolic legal level. The incoming DP government, under the scrutiny of EU, has pledged loyalty to the broad legal framework and the main principles of reform adopted by its precedents. However, it proved reluctant to build on the achievements of the outgoing administration. Once in power, the DP shelved the proposal prepared by the previous government to improve some dispositions of Civil Service Law and move to a second stage of expanding the core civil service to include more public employees. Instead, the government issued a new decree to move the main institution in charge of leading and managing administrative reform - the Department of Public Administration - from the Prime Minister Office to the Department of Interior, which ultimately downgraded the institutions’ leadership position.

Furthermore, neither the legal framework nor the EU mechanisms succeeded in stopping yet another wave of politically motivated dismissals. Although there are no official data, non-official figures on politically motivated dismissals abound. The opposition sources published in the daily press asserted that within the first months of the creation of the new government, 4500 public employees or almost half of the administration, 1300 of them from the civil service, were fired. Although the dismissals were justified as yet a new restructuring of state institutions, most analysts did not fail to see that new appointees were mostly political supporters of the governing coalition. The government’s latest decision to employ around 1700 temporary staff ahead of the forthcoming elections in 2009, a measure employed with great success to install political militants in the initial period of transition, seemed very much as a new and yet old attempt to get around the legal framework in order to get control over the state. In any case the wave of dismissals was to be a huge drawback for the state as most accumulated experience and capacities were gone. Furthermore, this might well turn against the current administration if and when the SP opposition turns to power creating a vicious circle whereas each government has to start all over again in the efforts to rebuild state institutions.

5. Conclusion

This paper aims to analyze the role of EU conditionality to foster administrative change in ‘borderline’ cases of reform, focusing in restructuring of public administration in post-communist Albania. Differently from most Europeanization literature, which by and large treats the EU pressure as a monolithic cause of change, the paper adopts a bottom-up approach which promises to bring in more prominently the domestic context and juxtapose the relative importance of EU vis-à-vis alternative factors, namely the role of other international organizations and especially the crucial role of domestic agency. The analysis starts from the system of interaction at the domestic level and, by using temporal sequences, checks when and how the EU provides a change in the system of interaction.

The longitudinal analysis of reform, defined as a progress towards the classic Weberian model of administration, proceeds in several stages according to the main actors setting the agenda of reform and resulting initiatives. In the initial stages of reform (1992-97), the creation of a modern professional administration did not figure in the political agenda, showing the absence of domestic actors’ will and capacities to tackle the overwhelming scope of wholesale reorientation of the administration towards politics and reinvention of administrative structures after communism. In this period, communist practices of party-state control lingered all around late and intermittent efforts to modernize the state, while the governing party remained strongly identified with the state institutions.

The adoption of a new legal package comprising the Civil Service Law and complementary by-laws coincided with the timing and increased involvement of the international donors, including the EU, to strengthen the Albanian state after the 1997 collapse. Reforms in this sector, thus, owe a lot to the drive from outside, especially when related to aid and technical assistance, both highly desirable incentives in a poor country and weak state. Yet, evidence from Albania shows that the adoption of a comprehensive package of laws aiming to modernize the state administration did not succeed to alter ongoing patterns of politicization and control over state by each ruling majority of the day. What we frequently notice in Albania, is the “easy” adoption of new rules, which have hardly worked as expected either because of the gaps in the law itself or the circumvention of law during the implementation stages. The governing actors have not posed resistance to adoption of new rules, but showed great resistance to implement the laws, which would ultimately be politically and economically costly in the context of a highly politicized state.

The extension of the EU enlargement framework to all the Balkan countries, including Albania, promised to increase the role of the EU by activating a range of conditions that can arguably push forward domestic change, especially when integration is seen as a major objective unifying all strands of the political spectrum. In line with a bottom-up approach design, the role of the EU is contextualized according to the timing and state of reform in the period when EU’s enlargement mechanisms became effective. Evidence from progress of reform after the introduction of EU conditionality, especially the test of political turnover following the 2005 elections, suggests that the EU’s broad requirements, when coupled with monitoring and targeting mechanisms, have provided additional safeguards to the broad orientation towards the Weberian model of reform. However, the EU policy instruments seemed less successful to stop a new wave of politicization as soon as a new majority came to power in 2005. As a result the colouring of the administration after the ruling majority remained commonplace. That has proved much more difficult to displace than the formal legal restructuring of state administration.

Overall, the article confirms the limits of EU conditionality in challenging domestic contexts. On the one hand, the EU's broad thresholds regarding the administrative criterion and especially the vague association between the progress of reforms and the advancement of institutional relations have allowed ample space for the governing actors to pay lip service to the EU requirements enshrined in legal frameworks, but refrain from giving up the high spoils of controlling state administration and resources. The governing actors, reluctant to renounce the power of controlling the state have preferred partial compliance – which consists of paying allegiance to the broad principles of a modern administration, but permits *de facto* control over the state either through incomplete laws or manipulation of laws during the process of implementation. The co-existence of a comprehensive legal basis to protect the administration with a *de facto* deeply politicized bureaucracy shows the limits of EU conditions in environments that lack actors committed to reform and the institutional capacities that can constrain elite actions in favour of change.

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